

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**MEDFORD DIVISION**

**GILBERT ANTHONY RIVERO,**

Plaintiff,

No. 1:23-cv-00860-CL

v.

**ORDER**

**CHILD SUPPORT OF MEDFORD, OR;**  
**D.A. MATHEW MCCAULEY,**

Defendants.

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AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge John Clarke. ECF No. 9. Judge Clarke recommends that this case be dismissed with prejudice based on lack of subject matter jurisdiction and statute of limitations deficiencies. *Id.*

Under the Federal Magistrates Act, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review.

*See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

In this case, Plaintiff has filed objections. ECF No. 11. The Court has reviewed the F&R, the record, and the objections, and finds no error. The F&R is therefore ADOPTED and this case is DISMISSED. However, because dismissal is based on lack of jurisdiction, dismissal shall be without prejudice but without leave to refile in the District of Oregon. Final judgment shall be entered accordingly.

It is so ORDERED and DATED this 8th day of July 2024.

/s/Ann Aiken  
ANN AIKEN  
United States District Judge